

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3724 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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CHHSIYA SAVJIBHAI AMRABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR JJ YAJNIK for Petitioners  
MR PANCHOLI AGP for Respondent No. 1  
MR HS MUNSHAW for Respondent No. 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/03/2000

ORAL JUDGEMENT

#. It is no more res integra that the appointing authority has no power to appoint the candidates exceeding the number of posts which have been advertised.

It is also equally well settled that waiting list has its own limited life and it cannot be kept alive for years together. Once all the posts advertised are filled in, the waiting list automatically exhausts.

#. Undisputedly, 8 posts of drivers were advertised. After holding interviews a waiting list of 20 candidates was prepared in the month of August, 1987. This waiting list had currency for a period of a year and it expired in the month of August, 1998. As against these 8 posts before expiry of this waiting list it appears that 15 appointments have been made. The petitioners names are there in the list at Sr. Nos.16 to 20. The petitioners have no right for the appointment. This court cannot give any direction to the respondents for appointment of the petitioners as it will be contrary to well settled law. It is true that in giving appointments to the candidates exceeding 8 in number authorities have committed illegality but merely on this ground this court will neither grant any relief to the petitioners nor it can give direction to the respondents for committing further illegal act. Sitting under Article 226 of the Constitution of India this court will not perpetuate any illegality. Those appointments may be illegal and it is also a settled principle of law that on the basis of illegal orders of the authority plea of discrimination cannot be permitted to be raised in the petition under 226 of the Constitution of India. This petition is wholly misconceived and the same is dismissed. Rule discharged. Interim relief, if any, granted by the court stands vacated. No order as to costs.

(S.K.Keshote, J.)

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